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PROPORTIONAL REPRESENTATION.

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THE

Election of Party Candidates

UNDER THE

FREE LIST.

BY

S. DANA HORTON.



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*Read before the Cincinnati Literary Club, May 31, 1873.*

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“Noi non dubitiamo che una delle condizioni essenziali a parer nostro di un buon sistema elettorale si è l'assicurare alle minorit  nella rappresentanza nazionale una influenza adeguata alla sua importanza reale.”—CAVOUR.

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## The Election of Party Candidates under the Free List.

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Early in 1872 a paper was read in the Club, essaying to state the argument for Proportional Representation, and to discuss the methods of translating this principle into practice. The criticism of the various systems of election hitherto proposed or adopted, resulted in favor of that suggested in 1844, by Mr. Thomas Gilpin, of Philadelphia, but now commonly known as the "Geneva Free List," from its rediscovery in the latter city by M. Antoine Morin.

The drift of the best public opinion seems now to be turning in favor of this plan; and of late no less a body than the Social Science Association of Philadelphia has issued, as one of its publications, a valuable paper by Mr. A. Sidney Biddle, on "The Work of a Constitutional Convention," which strongly supports the Free List.

To those unfamiliar with the subject, be it said that the *Liste Libre*, as it is called in Geneva, or better, the "Philadelphia Free List," is applicable only in the election of legislative bodies and boards in districts electing three or more members.

The idea is simply that the offices to be filled shall be apportioned among parties of voters agreeing upon a ticket in the proportion of the relative number of votes cast for such ticket.

The practice of allotting representatives to various bodies of voters in the proportion of their number, is, of course, as old as representative government itself; and good policy, withal, is confessedly in favor of a *fair* representation.

But what is fair representation? Evidently, it is the representation *of the various interests of voters in numerical proportion as far as it is possible to attain it.* And what are our methods for attaining it? Nothing as yet beyond the crude machinery of a century ago.

Although a General Ticket no longer disfranchises minorities entirely, yet everywhere territorial division is still the sole basis of apportionment. In every district an undignified contest still takes place for exclusive possession of what should be guaranteed to all as a right; and at the close of this contest the local majority assumes the monopoly of representation.

As for the opposition to reforming this state of things, one argument, headed "Majority Rule," is based on the natural but unfortunate ignorance which prevails as to the changes demanded. When the matter is once clearly comprehended, it is only as a prejudice that this first argument is powerful. And so also the second and last, that in favor of "*local* representation," so far as it is not fiction, is not opposed to reform.

The demand to-day is for *proportional* representation: that the majority may always elect its majority of members, and that minorities may always elect their ratio also; that as nearly as possible all the interests of voters be represented in due proportion, their local interests included.

To bring to pass so desirable a change, it is necessary that constituencies be large enough each to elect a large number of members—*but not by General Ticket.* These

large constituencies must, so to speak, be "sub-districted;" but the basis of apportionment must be, not the mere place of residence, but the opinions of the voter. Each Ratio of Representation will then, as now, elect one member; but that member will represent a unanimous, and not a divided, constituency.

The Free List, as I have indicated, meets this demand more fully than any other system proposed: it gives this proportional representation, indeed, with arithmetical certainty.

For example, Hamilton county, which offers us a convenient illustration, elects ten State Representatives; under the Free List, a party of one-tenth of its voters would elect one member, of two-tenths two, and so on, and a bare majority elects six, a minority four.

The "party" here contemplated, be it said, does not mean any special national organization, but refers in each district to the different bodies of voters who, at any particular election, cast ballots to support the same ticket.

If the opinions and interests of the voters are to be represented in proportion, they necessarily must be grouped into different parties, and the support of a ticket is their rallying-point.

A ticket may be known in two ways,—by its heading or name, or by the candidates on it.

In the first case one may vote for any one he pleases, but if "Democratic Ticket" is at the head of his ballot, it goes to strengthen that party. In the second case, the judges of election assort together those ballots that contain the same names, and the uniting in support of these names constitutes the party.

Returning to our subject after this preface, let us inquire as to the methods of nomination. Evidently,



the parties will not know before the election takes place how many votes they will be able to unite for their ticket. No party is likely to elect the whole ten, but yet each party will probably nominate more men than it elects. How is it to be decided which of the nominees are elected?

There are various answers to this question. Among them the following are the principal ones that have come to my knowledge: which of them is the best, discussion and experience must decide.

The association, organized in Geneva in 1865, to advocate electoral reform, offer as their solution this: No ballot is to contain a number of names greater than two-thirds of the whole number of members to be elected. The tickets are registered beforehand; each ballot is assigned to its ticket; the voter may put any names he pleases under the registered heading; but, though he can vote for less, he can not vote for more, than two-thirds of the whole number of members to be elected. When the votes are counted, the candidates stand ranged as they are in our elections to-day, in the order of plurality; and the proper number of those standing highest are declared elected.

It will be seen on examination that this is merely the Limited Vote applied within the party, the limit being fixed by a fraction, so that it may apply to all districts, whatever their size. This plan was developed gradually by the suggestions of French and Swiss writers, and this identity, as far as the party is concerned, with the English Limited Vote, seems to have escaped notice in Geneva. In his work on "*La Question Electorale*," however, the president of the *Association Reformiste*, M. Naville, points out the arbitrary nature of this two-thirds limit. It is evidently desirable wherever



the plan is adopted, that the limit should be modified to accord with the size of the district. In Hamilton county, for example, the Geneva plan would forbid voting for more than six in ten, whereas seven would be a better limit.

Within the past year the Cincinnati *Daily Enquirer*, in advocating the Free List (though not under that name), indicated that on counting the party votes the order of plurality was to determine which candidates were elected.

Now, the law to-day limits the number of names to be put on a ballot; no one can vote, for example, in Hamilton county, for more than ten candidates; and, I suppose, the continuance of this rule was implied. Should the whole party vote the straight ticket of ten, there would be, as the same journal has pointed out, a complete tie—ten candidates receiving all the same number of votes.

If one voter, however, has “scratched” a sufficient number of names on his ballot, his single ballot determines what candidates are elected.

This, of course, is an extreme case, but in general, under this plan, it is the amount of “scratching” that determines who is elected, or, in other words, those ballots, which are cut down to carry out the limited-vote principle, decide the question. “Scratching” here is the Limited Vote adopted voluntarily by individuals. The Geneva plan imposes it in fixed form as a law for all.

It would be equally possible to apply the Cumulative Vote within the parties. I am not aware that this has been hitherto suggested; yet, if we must have this dangerously attractive plan in any form, it would be well to have it where it would do least harm.

Where, as is fortunately the case, unlimited "bolt-ing" is not merely possible, but harmless, as under the Free List, those voters who agree to vote the same ticket, are not likely to be violent partisans of one or the other candidates.

Within the party, therefore, that well-known facility of the Cumulative Vote for rendering representation disproportionate, and for giving organized minorities the control, would not be so fatal. Still further, this danger, such as it is, might be avoided, by applying as a corrective the plan of allowing candidates to distribute as they please their surplus votes above the quota. To make this possible, the rule must be that no one is elected whose votes do not equal in number the ballots cast by the party. In cumulating votes upon their favorite candidate, the voters, then, simply put into his hands the privilege of determining among his fellow-candidates, who fail to get the quota, which shall become his colleagues. Such a plan as this would be applicable as well where one is allowed to vote for the whole ten, as where the vote is restricted to six or seven.

In an entirely different class from the preceding, stands that method which would naturally suggest itself to the American politician, namely, that the party itself should fix the order of the names before the election takes place. In M. Morin's earlier discussions, (for the possession of which, with his other works, I am indebted to his courtesy,) his plan took this form.

There are, of course, two ways in which the party may fix the order, viz., either directly or through its representatives. In the latter case, the work may again be done either by the convention or by representative committees. If the party is itself to de-

termine the order, the so-called "Crawford County" plan of a preliminary election might be followed; and here the order of pluralities would naturally determine. In either case, "scratching" of the party ticket on election day is of course to be abandoned, because it avails nothing. Each and all of the party vote A first, B second, C third, etc.

Still a different class from the others, is that which takes account of the individual voter's order of preferences among the various candidates. This idea is evidently in the line of the true theory of representation. That stimulus to the individual, which is so strong an argument for our best institutions, may also be claimed for it: it demands a delicately adjusted instrument of justice.

With the desire of satisfying these requirements, a plan, devised in the autumn of 1871, by two of your members, was presented to the Club in the paper above alluded to.

In order to be counted, a ballot must contain an indication of the voter's choice between all the candidates, as first, second, third, etc. The judges of election, in canvassing the votes, make the tallies on printed forms, so as to take account of these choices; and on transferring these tallies we have a table of the party vote, as for example:

Choice.	1	2	Sum.	3	Sum.	4	Sum	5	Zero	Sum
A.....	6	...	6	23	29	30	59	11	3	73
B.....	17	43	60	2	...	1	...	...	10	73
C.....	10	4	14	17	31	20	51	10	12	73
D.....	...	16	16	22	38	13	...	5	17	73
E.....	40	10	...	9	...	3	...	11	...	73
Zero....	...	...	...	...	...	6	...	36	42	
Sum.....	73	73	...	73	...	73	...	73	...	

In this table, be it observed, is presented a curious check on fraud in the count : a magic square, which, with its equal sums, enables one to detect at once the locality and extent of error.

To continue: He who stands first on the greatest number of ballots is elected first; if his party elects only one, he is that one: he who stands first or second on the greatest number of ballots is elected second: he who stands first, second, or third, is the third, and so on. In the table above, therefore, E is elected first, B second, D third.

After this plan was presented to the Club, I learned that the problem to which it offered a solution, had been discussed in Geneva, and by Mr. J. Francis Fisher, a gentleman of distinguished position in Philadelphia. I have thus far found no original remarks on the order of preference in the Swiss writers I have read. Being indebted, however, to Mr. Fisher's kindness for copies of his valuable discussions, I find in "Reform of our Municipal Elections" (Philadelphia, 1866,) the following passage :

"The simplicity, facility, and fairness of this scheme (the FREE LIST) appear to the writer unquestionable; and with this it seems possible to adopt, to a certain extent, Mr. Hare's idea of preferences; for, if each voter, on his own ticket, were to number the members as he preferred them, or approved their fitness—which most citizens might be very well able to do from personal acquaintance, or easily acquired information—the order of the names might in this manner be changed or reversed; and any name on each list which obtained a majority of preference marks, would replace another which wanted them. This would not only give a desirable opportunity for selection, but

a positive advantage to those whose character in the community stands highest."

Had the ideas above expressed or hinted at been clearly worked out, it is probable that the writer would have developed a solution like the one we have given above. He seems, however, rather to point to a convention's ticket as a basis of alteration. Of course, the value set upon the degree of preferences and the mode of counting the preferences, are the essence of the problem.

Another plan is to allow the plurality of second choices to determine who is to stand second; of third choices, who is to stand third; just as the plurality of first choices determines the first place. This has, indeed, been lately suggested by Mr. Biddle, in the paper above alluded to, probably with the desire to avoid the complexity of the "tally of choices." But the tally-sheets of a canvas, where five candidates are elected, and where there has been a wholesome use of the power of "scratching", are certain to appear complicated under the system in use to-day. The method in discussion does not offer material improvement in this regard, and it gives no check to fraud in the count; but the effectual objection to it is, that it is obviously disproportionate and unjust. For example: A, who has one-third of both first, second, and third choices, may be defeated by B, who has no first, no second, but four-ninths of the third choices.

Among the many enthusiastic partisans of Mr. Hare's scheme, I am surprised that none have yet advocated its adoption within parties, in combination with the Free List. The Free List secures both freedom from party tyranny, and the certainty that party opinions will be represented in the proportion of their strength. Now, the fatal objection to giving the Hare scheme the whole



field is, that it is not certain to represent parties in due proportion; and our voters do not propose to endanger the "main question." Were it combined with the Free List, this objection loses its force, and the complexity of the scheme and its defenseless condition against fraud are also less productive of danger.

It remains, before closing, to provide for the event of a candidate being elected on two tickets at the same time. This occurrence is happily not unfamiliar in this country; but in Geneva it has happened that as many as seventeen out of forty-four have united the two parties of the constituency in their favor. In view of this latter fact, in M. Morin's original plan of election, such candidates were "*elus d'emblee*" elected on the first count; and the allotment between the parties in proportion was to affect only the remaining offices. An obvious objection to this is, that if there are three, four, or five tickets in the field, injustice is done to the other parties. It is not fair to them to elect the favorite of two parties, as if the whole constituency were in his favor.

The objection may, however, easily be obviated. Each candidate represents his "quota," or ratio of representation. This quota should simply be taken from the vote of the parties electing him; being divided between two, if two elect him; between three, if three elect him, and so on. In a district of 40,000, electing ten (4,000 being the ratio of representation), if two parties of 10,000 each agree in electing A, then half of the quota, or 2,000, is to be taken from each party vote, and they compete for their proportion of the rest of the candidates, with their remaining 8,000 votes each.

In the plan read before you in 1872, it was proposed that A should be deemed elected on the ticket that received the most votes. On the other ticket those next below A, are elected in order; the supposition being that A would more naturally represent the largest party that supported him.





